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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO:8225 of 2007

DATED: 20-04-2007

Between:

1. Namichand and 6 others.

..... PETITIONERS

AND

1. The Communist Party (Marxist) of India (CPI), rep.by its Secretary, Dist CPI Office, Powerpet, Eluru, W.G.Dist., and another

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice B.Prakash Rao)

Heard the learned counsel for the petitioners.

In this writ petition the petitioners who are the applicants seek to assail the orders in rejecting an application filed in I.A.No.533 of 2007 in O.P.No.254 of 2004 dated 28-02-2007 on the file of the Principal District Judge, West Godavari, Eluru, purported to have been filed under Order 1 Rule 8 (2) and Section 151 CPC praying

the Court to order notice to respondents 3 to 96 by way of advertisement in any local newspaper by affixing the notice in a conspicuous place nearby and also by beat of tom-tom.

Briefly stated the facts of the case are that in the main OP filed by the petitioners herein under Section 8 of the A.P. Land Grabbing Act there are in all about 96 respondents which according to the petitioners are virtually of same place and same locality, and therefore, issuance of any notice would delay the process and there is also possibility of avoiding and therefore, to avoid such delays and impracticable exercises by taking out individual notices, the petitioners say that it is suffice if a notice is published in a local newspaper, since they are residing in same place, to come to know about the proceedings to make their appearance. The Court below after contest did not find favour with the request made by the petitioners herein and rejected the application on the ground that no such procedure can be followed or such procedure can be applicable to the facts of the case. Hence, the writ petition.

Having heard the learned counsel and also on perusal of the material on record, we are of the view that the petitioners' attempt to straight away take the step as contemplated under Order V Rule 20 of CPC by substitute service and format newspaper or otherwise cannot be right as long as the basic exercise of such issuance of notices at least for three times is taken out unsuccessfully. Merely

because there are several persons who are individual respondents it does not dispense with the procedure as contemplated under law. Having regard to the nature of proceedings which are original, necessarily the notices or summonses have to be served on the persons who are parties to the proceedings, without which the Court cannot proceed with the enquiry by treating that as if there is a valid service in the format by way of publication in the newspaper. No doubt, the learned counsel for the petitioners submits that it will lead to practical difficulties in taking out such notices but that is also not a ground to dispense with the basic procedure as contemplated under law, instead, it is suffice in the interest of justice, along with the notices, which will be sent through the Court, the petitioners' counsel is also permitted to take out personal service of notices individually to all the respondents herein. This will be in addition to the notices on payment of regular batta before the Special Court. Hence, we do not find any merits

Subject to the above, the Writ Petition is accordingly disposed of. No costs.

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B.PRAKASH RAO, J

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M.VENKATESWARA REDDY, J

20th April, 2007

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